



Report to the Auburn City Council

Action Item
Agenda Item No.
City Manager's Approval

To: Mayor and City Council Members
From: Reg Murray, Senior Planner *RM*
Date: February 23, 2009
Subject: Adoption of Local CEQA Guidelines (Admin File 304.4)

The Issue

Should the City Council repeal Chapter 151 (Environmental Quality) and adopt Local CEQA Guidelines?

Conclusions and Recommendation

The Auburn Planning Commission recommends that the Auburn City Council:

- A. By Motion, adopt the following Findings of Fact:
1. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and found to be exempt per §15308 – Actions by Regulatory Agencies for Protection of the Environment;
 2. The Local CEQA Guidelines are consistent with CEQA and the CEQA Guidelines; and
 3. The Local CEQA Guidelines are consistent with the Auburn General Plan and the public interest, health, safety, and welfare of the City of Auburn.
- B. By Motion, introduce and hold a first reading, by title only, of the ordinance to repeal Chapter 151 (Environmental Quality).
- C. By Resolution, adopt Local CEQA Guidelines.

History/Background

On February 3, 2009, the Planning Commission voted 5-0 to recommend that the City Council repeal Chapter 151 (Environmental Quality) of the Auburn Municipal Code (AMC) and adopt Local CEQA Guidelines. The staff report for the Commission meeting is provided with Attachments 1. Exhibit A is the ordinance repealing Chapter 151 while the resolution adopting the new Local CEQA Guidelines is provided with Exhibit B.

State law requires jurisdictions to adopt local regulations that implement the California Environmental Quality Act (CEQA). Chapter 151 of the AMC was initially adopted by the City in

1972 to satisfy this requirement, but it has since become outdated. Staff recognized the need to update the City's standards, and working with the City Attorney, developed new Local CEQA Guidelines. The Guidelines are consistent with applicable law, including CEQA and the State CEQA Guidelines, and are consistent with the Auburn General Plan and the public interest, health, safety, and welfare of the City of Auburn. No new procedures or standards are proposed with the new guidelines, these guidelines simply reflect the procedures staff currently uses when conducting its environmental review of projects.

Alternatives Available to Council; Implications of Alternatives

- A. Hold the first reading of the ordinance repealing Chapter 151 and adopt the Local CEQA Guidelines.
- B. Deny the proposal for the Local CEQA Guidelines.
- C. Continue the proposal for staff to provide additional information and/or address questions.

Fiscal Impacts

The City currently charges environmental review fees (Attachment 1); no new fees are requested in association with the adoption of Local CEQA Guidelines.

Additional Information

Please see the following for more details:

ATTACHMENTS

- 1. Planning Commission staff report – February 3, 2009

EXHIBITS

- A. Ordinance repealing Chapter 151
- B. Resolution adopting Local CEQA Guidelines with guidelines attached



CITY OF AUBURN

Planning Commission – Staff Report

Meeting Date: February 3, 2009

Prepared by: Reg Murray, Senior Planner

ITEM NO.
IV-E

ATTACHMENT 1

ITEM IV-E: ORDINANCE AMENDMENT (ENVIRONMENTAL QUALITY) AND ADOPTION OF LOCAL CEQA GUIDELINES

REQUEST: The City of Auburn proposes to amend the City of Auburn Municipal Code by repealing Chapter 151 (Environmental Quality) and adopting Local CEQA Guidelines by resolution.

RECOMMENDED MOTION:

- A. Move to adopt Planning Commission **Resolution 09-4** recommending that the Auburn City Council repeal Chapter 151 (Environmental Quality) and adopt Local CEQA Guidelines by resolution, or as amended by the Planning Commission.

ALTERNATIVE MOTION:

- B. Move to direct staff to amend Resolution 09-4 for denial and provide it for the Planning Commission's consideration at the February 17, 2009 meeting.

BACKGROUND/ANALYSIS:

State law requires jurisdictions to adopt local regulations that implement the California Environmental Quality Act (CEQA). In 1972, the City adopted an Environmental Quality policy (Ordinance 628; now Chapter 151 of the Auburn Municipal Code (AMC)). Since the City's initial adoption, the City's local implementing ordinances have referenced CEQA and its Guidelines as the local standards of guidance in environmental review of all projects. The City amended these standards as needed to reflect changes to CEQA. The last adoption of amendments was in 1988 (Resolution 89-47 adopted on 4/10/89).

Since 1988, Chapter 151 (Environmental Quality) has become outdated. Staff, in working with the City Attorney, has developed updated guidelines for the implementation of the CEQA. The updated CEQA Guidelines are provided with Attachment 1. The guidelines identify the regulatory authority for environmental review as well as detail the environmental review process for the City. No new procedures or standards are proposed with the new guidelines, these guidelines merely reflect the City's current environmental review procedures. Prior to the adoption of the new guidelines, existing Chapter 151 will need to be repealed. Attachment 2 is a copy of the draft ordinance necessary to repeal Chapter 151.

The draft guidelines are consistent with applicable law, including CEQA and the State CEQA Guidelines. The guidelines are consistent with the Auburn General Plan and the public interest, health, safety, and welfare of the City of Auburn.

Environmental Review Fees - Staff proposes no changes to the environmental review fees at this time. The fee schedule for environmental review is currently:

Categorical Exemption -	\$66
Negative Declaration	At Cost
Mitigated Negative Declaration (staff preparation) -	At Cost
Mitigated Negative Declaration (consultant preparation) -	Consultant Cost + staff at cost
Environmental Impact Report (consultant preparation) -	Consultant Cost + staff at cost

The Planning Commission is a recommending body for this request. The Commission's comments and recommendations will be forwarded to the Auburn City Council for their review and consideration.

ENVIRONMENTAL SUMMARY:

The Auburn Community Development Department reviewed this project for compliance with the California Environmental Quality Act (CEQA) and found it to be exempt from the provisions of CEQA per §15308 – Actions by Regulatory Agencies for Protection of the Environment.

ATTACHMENTS

1. Draft Resolution adopting Local CEQA Guidelines with guidelines attached
2. Draft Ordinance repealing Chapter 151

EXHIBITS

- A. Resolution 09-4

P:/Ordinance Amendments/CEQA Guidelines/CEQA Guidelines.PCreport1

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ORDINANCE NO. 09-
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN REPEALING
CHAPTER 151 OF THE AUBURN MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF AUBURN HEREBY FINDS AS FOLLOWS:

Chapter 151 of the Auburn Municipal Code, entitled "Environmental Quality Law of the City of Auburn" dates from 1973 and has become outdated. The City Council intends to repeal it and adopt by resolution local California Environmental Quality Act (CEQA) guidelines consistent with CEQA. The local CEQA guidelines are also consistent with the City of Auburn General Plan and the public interest, health, safety, and welfare of the City of Auburn.

THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS FOLLOWS:

Section One: Chapter 151 of the City of Auburn Municipal Code is hereby repealed.

Section Two: This Ordinance shall take effect thirty days following its adoption as provided by Government Code Section 36937.

Section Three: The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law.

Section Four: Should any provision of this Ordinance, or its application to any person, parcel or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or

1 the application of this Ordinance to any other person, parcel or circumstance
2 and, to that end, the provisions hereof are severable.

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4 DATED: _____, 2009

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8 _____
J.M. Holmes, Mayor

9 ATTEST:

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11 _____
12 Joseph G. R. Labrie, City Clerk

13 I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify
14 that the foregoing ordinance was duly passed at a regular meeting of the City
15 Council of the City of Auburn held on the ____ day of _____ 2009 by the
following vote on roll call:

16 Ayes:

17 Noes:

18 Absent:

19
20 _____
Joseph G. R. Labrie, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN
ADOPTING LOCAL GUIDELINES FOR THE IMPLEMENTATION OF THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, public agencies are required to adopt procedures to administer their responsibilities under the California Environmental Quality Act, Public Resources Code Sections 21000 et seq., ("CEQA"); including provisions on how the agency will process environmental documents and provide for adequate comment, time periods for review, and lists of permits that are ministerial actions and projects that are considered categorically exempt;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN DOES
HEREBY RESOLVE:

Section 1. The City of Auburn Guidelines for Implementation of the California Environmental Quality Act (CEQA) – Local CEQA Guidelines – 2009 attached hereto and on file in the office of the City Clerk are hereby adopted pursuant to Public Resources Code Section 21082 as the City's Local CEQA Guidelines.

Section 2. The Guidelines adopted by this resolution are intended to be consistent with CEQA; the State CEQA Guidelines, Title 14 of the California Code of Regulations; the Permit Streamlining Act, Government Code Section 65920, et seq.; the Subdivision Map Act, Government Code Section 66410 and other applicable law. The Guidelines shall be applied and interpreted in light of this intent.

Section 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this ____ day of _____ 2009.

J.M. Holmes, Mayor

ATTEST:

Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify that the foregoing resolution was duly passed at a regular meeting of the City Council of the City of Auburn held on the ____ day of _____ 2009 by the following vote on roll call:

Ayes:

Noes:

Absent:

Joseph G. R. Labrie, City Clerk

CITY OF AUBURN
GUIDELINES FOR IMPLEMENTATION OF THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
-LOCAL CEQA GUIDELINES-
2009

Adopted by Resolution No. _____
_____, 2009

I. Purpose of Guidelines and Regulatory Authority

The purpose of these Local CEQA Guidelines is to establish the requirements of the environmental review process not otherwise established by statute or ordinance. These Local CEQA Guidelines are intended to augment those procedures contained in the California Environmental Quality Act (Public Resources Code [PRC] Section 21000 et seq.), referred to herein as CEQA or the CEQA Statute, and the State CEQA Guidelines (Title 14, California Code of Regulations [CCR], Chapter 3, Section 15000 et seq.), referred to herein as the State CEQA Guidelines. The City shall comply with the requirements of these guidelines, the CEQA Statute, and the State CEQA Guidelines as each may be interpreted by the courts from time to time. In the event of conflict, these Local CEQA Guidelines shall be subordinate to the CEQA Statute and the State CEQA Guidelines.

Local CEQA Guidelines are adopted pursuant to Public Resources Code Section 21082, which requires public agencies to adopt local environmental review guidelines.

A copy of the CEQA Statutes and State CEQA Guidelines are on file at the City of Auburn Community Development Department. Primary responsibility for implementing the provisions of CEQA and these Local CEQA Guidelines shall lie with the Community Development Department.

Unless otherwise indicated in these Local CEQA Guidelines, all terms herein have the meanings ascribed to them in the CEQA Statute and the State CEQA Guidelines.

II. Environmental Review Process

- A. Community Development Department. The Community Development Director or designee shall coordinate CEQA compliance for private development projects, and for projects initiated or authorized by other City departments (in cooperation with that department). All references in these Local CEQA Guidelines to the Community Development Director, the Community Development Department or to staff shall refer to the Community Development Director or his or her designee. Community Development Department responsibilities include:

1. Review proposed activities and determine the applicability of CEQA and these guidelines.

2. Coordinate internal review of environmental documentation with other City Departments.
3. Coordinate the preparation and processing of environmental documentation through public review and decision-making processes.
4. Coordinate the preparation of required notices and circulation of environmental documents, including the circulation of documents through the State Office of Planning and Research or other agencies with reviewing and/or approving authority.
5. File Notices of Determination (NOD), Notices of Exemption (NOE), and Fish and Game Fees or Certificates of Fee Exemption.
6. Maintain all environmental records such as NODs, NOEs, Notices of Preparation (NOP), Initial Studies, Negative Declarations (ND), Mitigated Negative Declarations (MND), and Environmental Impact Reports (EIR) and related documents.
7. For City projects, determine environmental scope of work, schedule and budget; coordinate preparation of environmental documents and required noticing; retain environmental consultants if necessary; and oversee and direct consultant work products.
8. Coordinate the City's review and comment upon environmental documentation circulated by other agencies.
9. Update the Local CEQA Guidelines as necessary to ensure consistency with the CEQA Statute and the State CEQA Guidelines.

B. Determining the Applicability of CEQA. The first step in the environmental review process is to determine whether an activity is subject to environmental review according to CEQA. An activity is not subject to CEQA if the activity does not result in physical changes to the environment; does not involve discretionary action by the City; or is not a "project" as defined by CEQA (CEQA Guidelines Section 15060, CEQA Guidelines Section 15378).

City discretionary activities include, but are not limited to, public works capital improvement plans, public works construction; enactment and amendment of zoning ordinances; the adoption or amendment of a General Plan or its elements; or issuance of a lease, permit, license, certificate or other entitlement for use (e.g. temporary use permit, variances, design review, historic design review, conditional use permit, parcel maps, tentative subdivision maps, and tree permits).

Activities that are "Ministerial" (not discretionary) as defined in the CEQA Guidelines are not subject to CEQA or these Local CEQA Guidelines. City

ministerial actions include, but are not limited to, issuance of building permits, certificates of occupancy, final maps, parcel maps, encroachment permits, transportation permits, grading permits, business licenses, and home occupation permits.

- C. Projects that are Exempt from Environmental Review.** Once it has been established that an activity is a project and is subject to CEQA, the project shall be reviewed to determine if it is statutorily or categorically exempt from CEQA. The criteria for determining whether a project is exempt from environmental review are identified in Articles 18 and 19 of the State CEQA Guidelines. The City's Community Development Director shall determine whether a project reasonably falls within an exemption category and meets the intent of the Guidelines. For projects falling within the categorical exemptions, if the Community Development Director determines that the project could have a significant adverse effect on the environment, then the project will not qualify for a categorical exemption. Upon approval of an exempt project, a Notice of Exemption (NOE) may be filed with the County Clerk and/or State Office of Planning and Budget, at the discretion of the Community Development Director or designee. The Community Development Director's determination that a project is exempt from CEQA may be reviewed by the Planning Commission or City Council if either body is called upon to approve of the project.
- D. Initial Study.** If a project is subject to CEQA and is not statutorily or categorically exempt, a preliminary review and/or an Initial Study checklist shall be completed in accordance with State CEQA Guidelines Section 15063. Based on preliminary project review and/or the evaluation in the Initial Study, the Community Development Director shall determine whether a negative declaration or a mitigated negative declaration can be issued for the project or if an EIR is required. The Director's determination shall be made within 30 days after determining the application is complete (CEQA Guidelines Section 15102).
- E. Negative Declaration Process.** The negative declaration process is used when an initial study indicates a project will result in less than significant environmental impacts. There are two types of Negative Declarations: a (non-mitigated) Negative Declaration and a Mitigated Negative Declaration. The Negative Declaration process is the same for both types of documentation, and requires notice and public review as discussed in CEQA Guidelines Sections 15072-15073. The Negative Declaration or Mitigated Negative Declaration may be prepared by staff, or staff may retain an environmental consultant (cost to be billed to the Applicant. No project for which a Negative Declaration or Mitigated Negative Declaration is required may be approved until the Negative Declaration or Mitigated Negative Declaration is adopted as provided by law.

Upon adoption of a Negative Declaration or Mitigated Negative Declaration, the Director shall prepare a Notice of Determination (NOD). The NOD shall be filed with the Placer County Clerk and the State Clearinghouse (as necessary) within

five (5) calendar days. The applicant shall be responsible for paying all fees associated with the filing of the NOD (e.g. California Department of Fish & Game environmental document review fees; Placer County processing fee).

If a Negative Declaration or Mitigated Negative Declaration is prepared for a project, and (based on the associated Initial Study) the City makes a finding that the project would not have any adverse impact on "wildlife," then a Certificate of Fee Exemption shall be filed with the Placer County Clerk concurrently with the Notice of Determination, in compliance with California Fish and Game Code Section 711.4 (d)(2).

F. Environmental Impact Report Process. An EIR is required when it is determined through preliminary review and/or the Initial Study that a project may have a significant effect on the environment. An environmental consultant will be retained by staff (cost to be billed to the Applicant. No project for which an EIR is required may be approved until the EIR is certified as provided by law. The process for preparing an EIR shall comply with the CEQA Statutes and the State CEQA Guidelines. In processing the EIR, the City shall also comply with California Fish and Game Code section 711.4(d)(2).

G. Approving Authority. The Planning Commission shall serve as the approving authority for all Negative Declarations, Mitigated Negative Declarations, or Environmental Impact Reports associated with entitlements requiring discretionary review by the Commission. The City Council shall serve as the approving authority all Negative Declarations, Mitigated Negative Declarations, or Environmental Impact Reports associated with entitlements requiring review and approval by the Council and as to which the Planning Commission or another city body provides a recommendation to the Council.

III. Mitigation Monitoring.

When the City has imposed mitigation measures on a project, the City shall adopt a monitoring and reporting program consistent with the CEQA Statutes and the State CEQA Guidelines. The City may require the applicant to deposit an amount estimated to offset the cost of monitoring the development and operation of the project. The amount of the deposit shall be determined on a case-by-case basis at the time that the MMRP is adopted.

IV. Appeal Process.

Any action taken by the Community Development Department or the Planning Commission in the administration of the CEQA Statutes, the State CEQA Guidelines, and/or these guidelines may be appealed by any interested person in accordance with the appeal procedures set forth in Chapter 162 of the Auburn Municipal Code. Any decisions made by the City Council are final and not appealable, although such decisions are subject to judicial review in the manner provided by law.

V. Fees.

- A.** A fee covering all costs and expenses, including any consultants' fees, incurred by the City in preparing and processing a preliminary review, Initial Study, (Mitigated) Negative Declaration, EIR, or mitigation monitoring and reporting program shall be charged to the applicant in an amount established from time to time by resolution of the City Council. Those fees may take the form of a requirement that an applicant pay the City's actual costs with respect to that applicant's project and to maintain a deposit with the City against which those actual costs may be charged.
- B.** No fee shall be collected pursuant to these guidelines when it is determined at the initial examination that the proposed project does not require review pursuant to CEQA, because the project is exempt from the requirements of CEQA.
- C.** The City shall charge a fee not exceeding the actual cost of reproduction to members of the public who request copies of an Initial Study, (Mitigated) Negative Declaration, or EIR.
- D.** A non-refundable fee, the amount of which shall be determined from time to time by resolution of the City Council, will be required to initiate an appeal of any determination of the City made hereunder.